

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

ARTHUR S. APODACA,  
PLAINTIFF,

CASE NO.

V.

HON.

Jim Salmonson Warden,  
Lynn Foster Property Officer,  
Unit Manager Kambic,  
Sargent Chambers,  
LT. Harmon,  
A. Bosch co,  
Defendant(s),

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JURY TRIAL DEMANED

VERIFIED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

Introduction

This civil rights action filed pro se by Arthur S. Apodaca alleging a violation of his Fourth Amendment right to personal property and for it not to be missing and/or damaged. Since I've been here the Montana State Prison has lost and/or damaged my personal property. Additionally, the plaintiff is seeking supplement relief against the Montana State Prison for his personal property and any other specific tort or civil rights action that this court finds appropriate.

I.

1. The plaintiff, Arthur S. Apodaca, is a mentally disturbed individual who has a hard time understanding the Grievance procedure and the law of how to file the appropriate paper work. I've been at the Montana State Prison for 5 years and they have lost and/or damaged my personal property and it is also a violation of my civil rights, due process, and it is a violation of my Montana Constitutional rights as well.

2. He is utilizing the help of a jailhouse lawyer on the same block in order to help him get his case into the courts.

3. At all times relevant to this complaint, Apodaca is confined at the Montana State Prison. He is currently in locked housing of the Montana State Prison located at 700 Conley Lake Road, Deer Lodge, MT 59722.

#### The Defendant(s)

4. The defendant(s) in this are individuals who are responsible for the plaintiff's personal property and has some mental issues. (Please See, Motion for Appointed Counsel). The fact of the matter, is that Apodaca will need the assistance of an attorney if he is to overcome the obstacles of presenting a full and complete complaint to the courts. The jailhouse lawyer will not be able to adequately defend him. The defendant(s) who are listed are the ones who are responsible for following the law and policies on personal property and the United States constitution and the Montana State Constitution and his due process, this is the provision of the obstacles in itself.

#### II. Basis for jurisdiction

5. The individual's whom Apodaca is bring this civil rights action against all of the defendant(s) is obviously the people under the color of Montana State law who has deprived him of his rights to have his personal property protected by United States Constitution and federal laws, the Montana State Constitution and laws.

6. The court has jurisdiction over the plaintiff's claims of violations of federal constitutional rights 28 U.S.C. §1331 and 28 U.S.C. §1367; and supplemental jurisdiction of state constitutional and statutory rights under 28 U.S.C. §1367.

7. This civil actin is filed against the state actor's for violation of the plaintiff's rights under Fourth Amendment to not have their personal property search andor siezed, both in the Unied States constitution and the Montana State Constitution and the laws therof.

8. The people listed on this complaint was acting under color of state law.

### III. Prisoners Status

9. Arthur S. Apodaca is a prisoner who's personal property is missing and/or damaged at the Montana State Prison.

### IV. Statement of Facts

10. My personal property was not removed from my cell on "HSU2" until 2 hours later. Pre policy inmates who go to the holef detention. is to be rolled up immediately. The unit delayed on rolling my personal property up.

11. I've done exhausted my administrative remedies. All 4 levels was completed some were granted in part and some were denied.

### V. Statement of Claims

12. An Fourth Amendment claim consists of two elements:

A. Deliberate Indifference and B. Subjection to sieze and damaged property. Being placed in confinement makes the defendant(s) responsible for my personal property. That is a violation of my United States Constitution and the Montana Constitution rights and my due process, rights too.

13. The court should exercise it's descresion to find that some other right was violated.

#### VI. Injuries

14. This confinement has made my mantal issues worse and all of the pain and suffering that I have to go through and my finacial status got worse too.

#### VII. Relief Requested

WHEREFORE, Plaintiff requests that this court grant the following relief to the Plaintiff:

A. Declare that Apodaca Constitutional rights were indeed violated By the Montana State Prison.

B. Award compensatory to the Plaintiff for damages, emotional, mental suffering, pain and suffering, and punitive damages.

C. Grant the Plaintiff other such relief as it may appear that the Plaintiff is entitled to.

D. Grant the Plaintiff this amount \$750.00.

#### VIII.Exhaustion of administrative remedies

15. The Plaintiff has followed the policy and procedure of the Montana State Prison and the Department of Corrections.

16.Signed this\_\_\_\_\_day of\_\_\_\_\_,2022.

Signed:\_\_\_\_\_

Arthur S. Apodaca  
MT DOC #32024984  
Montana State Prison

VERIFICATION

State of Montana)  
County of Powell)

Affidavit of Arthur S. Apodaca

17. MR.Apodaca, Arthur S., being first duly sworn, deposes and says:

18. That I am the affiant in this complaint for civil rights violation above and do hereby declare and swear that the facts stated in that document are true and correct to my knowledge and belief, and facts stated on information and belief are true and correct to my knowledge belief.

19. Done this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Signed: \_\_\_\_\_

Arthur S. Apodaca  
# 3024984

\_\_\_\_\_  
print name of notary

STAMP

\_\_\_\_\_  
notary signature

\_\_\_\_\_  
commission expires